



April 8, 1999

Ms. Barbara G. Heptig
Assistant City Attorney
City of Arlington
101 West Abram Street
Arlington, Texas 76004-0231

OR99-0937

Dear Ms. Heptig:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 123281.

The City of Arlington (the "city") received a request for information in report number 98 3510293. You have submitted the responsive information for our review, contending that it is excepted from public disclosure by section 552.101 of the Government Code in conjunction with the common-law right of privacy.

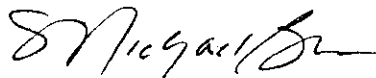
Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Information must be withheld from required public disclosure under common-law privacy if 1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In *Industrial Foundation*, the Texas Supreme Court considered intimate and embarrassing information such as that relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. 540 S.W.2d at 683; *see also*, Open Records Decision Nos. 470 (concluding that fact that a person broke out in hives as a result of severe emotional distress is excepted by common-law privacy), 455 (1987) (concluding that kinds of prescription drugs a person is taking are protected by common-law privacy), 422 (1984) (concluding that details of self-inflicted injuries are presumed protected by common-law privacy) 343 (1982) (concluding that information regarding drug overdoses, acute alcohol intoxication, obstetrical/gynecological

illnesses, convulsions/seizures, or emotional/mental distress is protected by common-law privacy).

From our review of the submitted document, we conclude that none of the subject information meets the *Industrial Foundation* test for common-law privacy. Therefore, the requested information must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Burns".

Michael J. Burns
Assistant Attorney General
Open Records Division

MJB/ch

Ref: ID# 123281

encl. Submitted documents

cc: Mr. Bill Bateman
6722 Clear Creek Drive
Arlington, Texas 76001
(w/o enclosures)